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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,169	02/19/2004	Shane D. Pannell	122308.00003	7168

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EXAMINER

KIM, CHRISTOPHER S

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/783,169	Applicant(s) PANNELL ET AL.	
	Examiner Christopher S. Kim	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,9,12-14,16-18 and 38-45 is/are pending in the application.
- 4a) Of the above claim(s) 38-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9,12-14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 1, 2006 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

3. Newly submitted claims 38-45 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claim 38 recites a combination of a chemical application system supplied by a delivery vehicle which does not require the details of the subcombination of a chemical application system of claim 1, i.e. the lever arm. The subcombination has separate utility such as a sprinkler.
4. Claims 38-45 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 23, 2005.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1, 2, 4-7, 9, 12-14, 16-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The disclosure, as originally filed, does not appear to disclose "a hand-operated disconnect fitting." The specification, in paragraph 14, on page 6, discloses that connector 42 is a quick-connect fitting which includes a lever arm 44 and a quick-connect fitting 48.

Claim Rejections - 35 USC § 102

7. Claims 1, 4, 6, 7, 9, 12, 13, 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Wing (2,862,765).

Wing discloses a chemical distribution system comprising :

a first portion of tubing 42, 43 which is affixed along an exterior surface (such as screens doors, windows or the like; column 3, lines 50-54) of a dwelling 11;

a second portion of tubing 42, 43 affixed along structures 12, 13 external to the dwelling 11, the second portion of the tubing being connected to the first portion of tubing;

a plurality of outlets 46;

a hand-operated disconnect fitting 33 having a first end 17, a lever-arm (handle to valve 33) for rotation, and a second end 30, wherein the first end 17 readily disengages a portable storage tank 14.

The first portion of tubing has a pressure rating of at least 60 PSI because the tank pressure is 125 PSI (column 2, line 40). The regulator would inherently be sized to at least the tank pressure. Even if the regulator was sized with a max capability of less than the tank pressure, if the regulator would fail resulting in a full open position, the down stream tubing would be designed to handle the tank pressure, for safety purpose. Otherwise, the tubing system would rupture upon failure of the regulator.

Wing also discloses, in column 5, lines 35-44, that nozzles may be positioned at any point and that the fog assembly may be associated with various types of buildings and vehicles, such as warehouses, garages, barns, dairies, airplanes, etc.

Claim Rejections - 35 USC § 103

8. Claims 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wing (2,862,765).

Wing discloses the limitations of the claimed invention with the exception of the routing the second portion along fence pillars. Wing also discloses, in column 5, lines

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35-44, that nozzles may be positioned at any point and that the fog assembly may be associated with various types of buildings and vehicles, such as warehouses, garages, barns, dairies, airplanes, etc.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have routed the second tugging along fence pillars to control insect at fences.

9. Claims 2, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wing (2,862,765) in view of Valiant (4,175,703).

Wing discloses the limitations of the claimed invention with the exception of the clamps. Valiant discloses form fitting clamps 27 used to route conduit 20. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have used the claims of Valiant to route the tubing of Wing to prevent substantial harm to the appearance of the building (Valiant, column 1, lines 50-54).

Response to Arguments

10. Applicant's arguments with respect to claims 1, 2, 4-7, 9, 12-14, 16-18 have been considered but are moot in view of the new ground(s) of rejection.

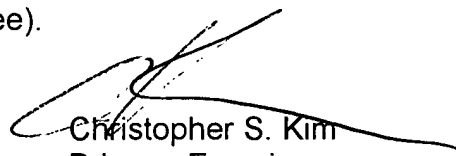
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571)

272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher S. Kim
Primary Examiner
Art Unit 3752

CK